(c) what the cause of disparity was, if any, in the quantities issued?

Mr. M. Raman Menon *(Commissioner of Excise):*

(a)

Year		*Ganja seers*	*Opium seers*
1111	..	235	35
1112	..	235	32½
1113	..	333	38½
1114	..	355	35½
1115	..	604	36
1116	..	1086	44

(b) 932 seers of ganja and 21 seers of opium.

(c) Ganja. The reason for the disparity is that in some years, owing to the superior quality of the Ganja supplied, there was increased demand.

Opium. Till 1115 the ration fixed was 36 seers a year. In some years, when the outgoing licensees happen to be the licensees of the succeeding year also, they used to be given a few seers as advance at the end of the year to help them to begin business from the 1st of Chingam itself. This accounts for the disparity. In 1116, however, the ration was enhanced to 42 seers per annum. 1½ seers were issued to the licensees of 1117 and half a seer was issued in excess by Chittur Treasury Officer by mistake.

LEG SLATIVE BUSINESS—NON-OFFICIAL BILLS

The Cochin Christian Succession Act (Amendment) Bill—*(cont.)*

Mr. President: Now we shall continue the discussion on the Christian Succession Act (Amendment) Bill.

Mr. C. V. Iyyu *(Kunnamkulam):* On a point of explanation, I was told yesterday by a responsible member of this House that I had supported the Cochin Christian Succession Act (Amendment) Bill. I have not supported the provisions of the Bill. My idea about the meirts of the Bill is yet unsettled. So at present I may be considered to be neutral.

Mr. K. Ayyappan *(Ezhuvas-Kanayannur):* He seconded the motion. I was in the Chair.

Mr. C. V. Iyyu *(Kunnamkulam):* As far as the merits of the Bill is concerned I am neutral at present.

*മിസ്റ്റർ ടി. കെ. നായർ: മിസ്റ്റർ പ്രസിഡണ്ട് സർ, ഇന്നലെ ഈ വിഷയത്തെപ്പറ്റി എനിക്കു തോന്നിയിട്ടുള്ള മിക്ക അഭിപ്രായങ്ങളും ഞാൻ പറയുകയു

* Speech not corrected by the hon'ble member.

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ണ്ടായി. ഈ ബില്ലിനെ ഞാൻ സപ്പോർട്ടുചെയ്യുവാനുള്ള കാരണം പറഞ്ഞതിൽ നമ്പൂതിരി ബിൽ ഈ നിയമസഭ പാസാക്കികൊടുത്തതും, എഴത്തശ്ശൻ ബിൽ പാസ്സാക്കിയതും, ഈഴവ ബിൽ പാസ്സാക്കിയതും ഉദാഹരണമായിട്ട ഞാൻ ഇവിടെ എടുത്തു പറയുകയുണ്ടായി. നമ്പൂതിരി ബിൽ ഇവിടെ അവതരിപ്പിച്ച അവസരത്തിൽ ആ സമുദായത്തിലെ ഒരു വിദ്യാമെമ്പറെ – തൈക്കാട്ട് മൂസ്സ് അവർകളെ—ഗവമ്മെണ്ടിൽനിന്നു നോമിനേറ്റുചെയ്യുകയും അദ്ദേഹം ഈ നിയമസഭയിൽ ഒരംഗമായി വരികയുമുണ്ടായി. അന്ന് നിയമസഭ നമ്പൂതിരി ബില്ലിൽ എടുത്ത ആ ഒരു സ്ഥിതി കണ്ടപ്പോൾ അദ്ദേഹം നിയമസഭയിൽനിന്നും എഴുനേറ്റു പുറത്തുപോയി. ഗവമ്മെണ്ടിൽനിന്നും നോമിനേറ്റുചെയ്ത വിദ്യാമെമ്പർ നിയമസഭയിൽനിന്നു എഴുനേറ്റു പുറത്തുപോയിട്ടുകൂടി ഈ നിയമസഭ അതു പസ്സാക്കിക്കൊടുത്തു.

Mr. T. A. Ramachandra Ayyar *(Nellayi)*: Knowing that he was against this Bill he was invited to the House. I am simply stating facts.

മിസ്റ്റർ ടി. കെ. നായർ: എഴത്തശ്ശൻ ബിൽ അവതരിപ്പിച്ച അവസരത്തിൽ നെമ്മാറ ഫക്കയിലുള്ള എഴത്തശ്ശൻ സമുദായത്തെ മുഴുവനും ആ ബില്ലിന്റെ പരിധിയിൽനിന്നു ഒഴിവാക്കണമെന്നു പറഞ്ഞു് ഒരു പെറ്റീഷൻ ഈ നിയമസഭയിൽ സമർപ്പിച്ചു. ആ പെറ്റീഷൻ നിയമസഭയുടെ മുമ്പാകെ ഇരിക്കുന്ന അവസരത്തിൽ ആ ബിൽ ഈ നിയമസഭ പാസാക്കിക്കൊടുത്തു. ഒപ്പോസിഷൻ ഉണ്ടായിരുന്നില്ല, യൂനാനിമസ്സായിരുന്നു എന്നു പറഞ്ഞതിനു ഒരു ഉദാഹരണമായിട്ടാണു് ഞാനിതുപറഞ്ഞതു്. തിയ്യ ബിൽ ഇവിടെ പാസാക്കാതിരിക്കുവാൻ എന്റെ മാന്യസ്നേഹിതന്മാരെ എത്രത്തോളം ബുദ്ധിമുട്ടിച്ചിട്ടുണ്ടെന്നുള്ളതു് മിസ്റ്റർ അയ്യപ്പനു് അറിയാവുന്ന ഒരു സംഗതിയാണു്. ഞാനിതുപറയുന്നതു് എന്തിനാണെന്നുവെച്ചാൽ ഈ നിയമസഭ ഈവക വിഷയത്തിൽ എടുത്തിട്ടുള്ള ഒരു നയം അതായതു്, തിയ്യ ബിൽ, എഴത്തശ്ശൻ ബിൽ, നമ്പൂതിരി ബിൽ മുതലായവയിൽ എടുത്തിട്ടുള്ള ഒരു നയം സ്ത്രീകൾക്കു അവരുടെ ശരിയായ അവകാശം കൊടുക്കണമെന്നുള്ളതാണു്. സമുദായം അതിനെ എത്രതന്നെ വിരോധിച്ചാലും ഈ നിയമസഭ അതു് സമ്മതിച്ചുകൊടുത്തിട്ടുണ്ടു്. ആ ഒരു തത്വം ഇതിലും സ്വീകരിക്കുവാൻ നിയമസഭക്കു യാതൊരു വിഷമവുമില്ല. ഫ/൩ ഷെയർ കൊടുക്കുവാൻ വിരോധമില്ലെന്നു സമ്മതിച്ചിട്ടുള്ള ഒരു സമുദായത്തിൽനിന്നാണു് ഈ ബിൽ കൊണ്ടുവന്നിട്ടുള്ളതു്. പുരുഷനു മുതലിൽ എത്രത്തോളം അവകാശമുണ്ടോ അത്രയും അവകാശം സ്ത്രീക്കും അനുവദിച്ചുകൊടുക്കുന്നതിനാണു് ഈ ബിൽ കൊണ്ടുവന്നിട്ടുള്ളതു്. മുതലിൽ സമാവകാശം അനുഭവിച്ചുവരുന്നതായ ഒരു സമുദായത്തിൽപെട്ട ഒരംഗമാണു് ഞാൻ. സ്ത്രീകൾക്കു മുതലിൽ അവകാശമില്ല, അല്ലെങ്കിൽ ഫ/൩ ഭാഗത്തിനേ അവകാശമുള്ളു; അഥവാ പകുതിക്കേ അവകാശമുള്ളു എന്നിരുന്നാലും എന്റെ അഭിപ്രായമാണു് ഞാൻ പറയുന്നതു്. അതുകൊണ്ടാണു് ഞാൻ ഈ ബില്ലിനെ സപ്പോർട്ടുചെയ്യുന്നതു്.

ഇനി ഈ ബില്ലിന്റെ തത്വത്തെമാത്രം അടിസ്ഥാനപ്പെടുത്തി അതിനെ എതിർത്തു സംസാരിച്ച മെമ്പർമാരുടെ അഭിപ്രായം എന്താണെന്നു നോക്കി എന്റെ അഭിപ്രായം മാറ്റാം എന്നുണ്ടെങ്കിൽ എന്റെ അഭിപ്രായം മാറ്റുവാനുള്ള യാതൊരു കാര്യവും ഇവിടെ പറഞ്ഞുകേട്ടില്ല. ഇതിനു പ്രധാനപ്പെട്ട ഒരു തടസ്ഥം പറഞ്ഞുകേട്ടതു് ഈ ബിൽ പാസായാൽ എല്ലാ അച്ഛന്മാരും ഒസ്യത്തെഴുതി പെൺമക്കളെ മുഴുവനും അവകാശത്തിൽനിന്നു ഒഴിവാക്കുവാൻ ഇടയുണ്ടെ

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ന്നാണ്. എനിക്കുള്ളം ആദ്യം പറഞ്ഞതുപോലെ റിവോൾട്ടിംഗായിട്ടാണ് തോന്നിയതു്. ഒരച്ഛനു പെണ്ണും ആണുമായി രണ്ടു കുട്ടികളുണ്ടെങ്കിൽ മകൾക്കു യാതൊരു അവകാശവുമില്ലാതെ മകനുമാത്രമെ സ്വത്തിനു അവകാശമുള്ളു എന്നു വരുത്തുകയാണെങ്കിൽ അതു അച്ഛനല്ല. എന്റെ അച്ഛനാണു് അങ്ങിനെ ചെയ്യുന്നതെങ്കിൽ അതു എന്റെ അച്ഛനല്ലന്നെ ഞാൻ പറയുകയുള്ളു.

Mr. C. V. Iyyu *(Kunnamkulam)*: My information is that your father gave you more than what he gave your sisters.

മിസ്റ്റർ ടി. കെ. നായർ. എന്നെ ഈ തരത്തിൽ ആക്കീട്ടുള്ളതൊക്കെ എന്റെ അച്ഛനാണു്. എന്റെ സഹോദരിമാരാരും നിയമസഭാ മെമ്പർമാരല്ല. അവരേക്കാൾ കൂടുതൽ ആനുകൂല്യങ്ങളും ഞാൻ അനുഭവിക്കുന്നുണ്ടു്. ഞാൻ പറയുന്ന തത്വമാണു് മിസ്റ്റർ ഇയ്യു മനസ്സിലാക്കേണ്ടതു്. സ്ത്രീകൾക്കു മുതലിലുള്ള അവകാശം ഇല്ലാതാക്കി തീർക്കുവാൻ അച്ഛന്മാർ ഈ ബില്ലു പാസ്സായാൽ ശ്രമിക്കും എന്ന വാദം ശരിയല്ല. അപൂർവ്വം ചില അച്ഛന്മാർ ഇത്തരത്തിൽ ചെയ്യുമെന്നു വിചാരിക്കാതിരിക്കുവാനും തരമില്ല. ഒരു കാര്യം ഇവിടെ പറയാം. ഈ അടുത്തകാലത്തു് രണ്ടു പെൺമക്കളെ കല്ല്യാണം കഴിക്കുവാനുള്ള ബുദ്ധിമുട്ടു് ഓർത്തു് ആ പെൺമക്കളെ ഒരച്ഛൻ വെള്ളത്തിൽ മുക്കി കൊന്നു. ആ അച്ഛന്റെ സമുദായവും പേരും ഞാൻ പറയുന്നില്ല. ഇങ്ങിനെയുള്ള അച്ഛന്മാർ ഉണ്ടാകയില്ലെന്നു പറയുവാനും എനിക്കു തരമില്ല. അതു് ഏതു സമുദായത്തിലും ഉണ്ടാകും. പെൺമക്കളെ സ്നേഹമില്ലാത്ത അച്ഛന്മാർ ഉണ്ടാകയില്ലെന്നു ഞാൻ പറയുന്നില്ല. ഒരു ചോദ്യം ഞാൻ ചോദിച്ചുകൊള്ളട്ടെ. എന്റെ മാന്യസ്നേഹിതൻ ഇന്നലെ ഇവിടെ പറയുകയുണ്ടായി ഇരുപതൊ ഇരുപത്തൊന്നൊ കൊല്ലം മുമ്പു ഒരു കമ്മറ്റിവെച്ചു സമുദായത്തിലെ അഭിപ്രായങ്ങളും ശേഖരിച്ചു തെളിവെടുത്തതിനു ശേഷമാണു് സ്ത്രീകൾക്കു ഏ/നു ഭാഗം അവകാശം നിശ്ചയിച്ചിട്ടുള്ളതെന്നു്. ആ നിയമം പാസായി കഴിഞ്ഞതിനുശേഷം എത്ര ഒസ്യത്തുണ്ടായി എന്നറിഞ്ഞാൽ കൊള്ളാം. അതുകൊണ്ടു് ഈ ഒസ്യത്തിന്റെ ന്യായം ഇതിൽ പറയുന്നതു ശരിയല്ല.

പിന്നെ ഒരു വാദം ഇതിനൊതിരായിട്ടു പറഞ്ഞതു് തറവാടിന്റെ പേരു് നിലനിത്തികൊണ്ടുവരുന്നതു് ആൺമക്കളാണെന്നാണു്. അതു മുതലവകാശത്തിന്റെ കാര്യത്തിൽ പറയേണ്ട ഒരു ന്യായമല്ല. പെണ്ണിനും തറവാടുണ്ടു്. ആണുങ്ങൾക്കുമാത്രമെ തറവാടിനെ നിലനിത്തിക്കൊണ്ടുവരുവാൻ സാധിക്കയുള്ളു എന്നു പറയുന്നതു വെറും സ്വാർത്ഥമാണു്. എന്തുകൊണ്ടു ചീഫ് മെഡിക്കൽ ലാപ്പ്ലീസ്സർ മിസ്റ്റർ തരിയനു് ഒരു മകൾമാത്രമെയുള്ളുവെങ്കിൽ ആ മകൾ തറവാടിനെ നിലനിത്തുകയില്ല? എത്രയെത്ര പെൺമക്കൾ തറവാടിനെ നിലനിത്തിക്കൊണ്ടുവരുന്നുണ്ടു്. ഈ വാദം തീർച്ചയായും പെൺമക്കളോടു ചെയ്യുന്ന ഒരു സാഹസം എന്നല്ലാതെ വേറെ ഒന്നും പറയുവാൻ നിവൃത്തിയില്ല.

അതുകൊണ്ടു് ആൺമക്കൾക്കും പെൺമക്കൾക്കും ഒരുപോലെ അവകാശം കൊടുത്തുവരുന്ന ഒരു സമുദായത്തിൽപെട്ട എനിക്കു ഈ ബില്ലിനെ സപ്പോർട്ടു ചെയ്യാതെ നിവൃത്തിയില്ല. ഇതു സെലക്ടു് കമ്മിറ്റിക്കു അയക്കുന്നതിനെ ഞാൻ അനുകൂലിക്കുന്നു.

Mr. K. Ayyappan *(Ezhuvas-Kanayannur)*: Sir, I support the motion for referring this Bill to a select committee. All the arguments for rejecting the motion are reminicent of a state of

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society in which woman was considered chattel or at the best a toy. Those days are gone. We are far advanced from that state of society now. If we plead for dependence that dependence must be mutual. If we plead for independence that must also be mutual. The only argument that was advanced by the opposers of the motion was that the Christian family will be disrupted. Sir, this very same argument was raised when the proposal for enactment giving ⅓ share to the woman was made. That enactment is part of the statute book now. Still the Christian community has gone on for about 20 years without any disruption of the Christian families. Therefore I think it is the difficulty of the conservative mind to change that we find in the arguments advanced against the Bill now. And in social legislation I am of opinion—I am not going to the opinion that the Government should take—that legislators should go in advance of the state of the society. Otherwise no beneficient legislation can be effected. A section, a large section, will always be against the beneficient change in social matters. They should be ignored. Countries which have made rapid advances in social matters have ignored this conservative majority and passed legislations for progress. As regards the Christian Succession Act there is no difficulty. The opinion in the community is for a change, I think. The opinion of the ladies is clearly for a change. We have got a representative opinion here. I think that the opinion of the Hon'ble Lady Member for Trichur is not her own individual opinion. She is not an irresponsible member here. She must have voiced forth the opinion of the ladies there. The very fact that she has given her opinion in favour of the Bill shows that the majority of the ladies and majority of the Christians there are in favour of this Bill.

Mr. M. K. Devassy *(Adur):* What about the 104 wise ladies of Trichur?

Mr. K. Ayyappan *(Ezhuvas-Kanayannur):* Three or four ladies who are against this Bill went round and canvassed signatures against this Bill. You can make whatever inference you want from these signatories. The sponser of this Bill—I am not saying anything in disparagement of the hon'ble member—was not very careful. If I were the mover of this Bill I would have brought 10,000 signatures here. It is not at all a difficult matter. My friend there is not so very earnest in this matter. He left the matter to our good sense, and he did not want to go round and canvass signatures. As one hon'ble member pointed out, all wives according to the present system are dependent on their husbands. Therefore they cannot but give their opinion as against the Bill.

Sir, I will point out another instance. Our Hon'ble friend the Member for Medicine was voicing forth his opinion against the Bill

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here. His wife presided over a meeting of the Y.W.C.A., one of the most recognised associations of women not only here but throughout the world and has passed a resolution supporting the Bill. The Catholic Ladies' Association supports the Bill. In social matters the practice of the Government hitherto, was to leave the matter to the non-official side. In this particular measure the Government have no business to take sides. *(Hear, hear).* Here, Sir, among the Christian members the majority favours the Bill. Are they irresponsible? Are they the enemies of their community?

Mr. M. K. Devassy *(Adur):* Can you say that the Christian majority is supporting the Bill?

Mr. K. Ayyappan *(Ezhuvas-Kanayannur):* I hope so. Atleast five of them. Mrs. Iyyunni, Mr. Moothedan, Mr. Pylee, Mr. M. L. Joseph, all these gentlemen support the motion. Moreover Mr. C. V. Iyyu has seconded the motion.

Mr. C. V. Iyyu *(Kunnamkulam):* I am neutral as far as the Bill is concerned.

Mr. K. Ayyappan *(Ezhuvas-Kanayannur):* Then there is Mr. Mathai.

Mr. M. K. Devassy *(Adur):* I am drawing the attention of the House to a very important point. It will be misleading the House to say that the majority is for the Bill.

Dr. A. R. Menon *(Minister for Rural Development):* It is almost equal.

Mr. M. K. Devassy *(Adur):* I think Mr. Luiz is opposed to this Bill.

Mr. K. Ayyappan *(Ezhuvas-Kanayannur):* I withdraw that statement. Whether the majority is for or against we will see at the time of the voting.

Sir, I have to ask the Government to continue their practice which they have adopted with regard to every social legislation in this House. They should be neutral or they should allow their members to vote according to their own choice. Government have no business to interfere in this matter.

Sir, I support the motion.

***Dr. A. R. Menon** *(Minister for Rural Development):* Sir, during the course of the discussion it was brought out clearly that there is a cleavage of opinion even among the Christian members representing the various constituencies here. Roughly speaking, we may say that they are divided almost equally for and against this

*Speech not corrected by the hon'ble member.

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measure, and I have no doubt that both are actuated by the highest of motives so much so that while Mr. Moothedan thought that the introduction or the carrying out of this measure will be of a beneficial nature, Mr. Devassy with equal vehemence and with transparent sincerity adumbrated the proposition that the carrying out of this measure will be injurious to the women as a whole. What is the explanation of this difference of view? It can easily be traced to a state of mind—what we call a habit of mind—engendered through generations of thinking in a certain way as was pointed out by the Deputy President sometime ago. By allowing your mind to pass through a certain channel for decades you come to believe that any departure from that course is fraught with grave consequences to the community. Therefore, you take it as gospel truth, that the existing law and the existing system must obviously be of the greatest benefit to the community and any tampering with it is likely to cause injurious effect upon it.

Sir, this habit of thinking somehow or other unconscionably influences our action and logic and reasoning and also the changes that have taken place in the world in accordance with the progress of the community are not taken into consideration or at least are not given that importance which otherwise will be given. Hence it is that in many of the social matters people are not guided by the reason, by the justice of the argument but by one reason or by one line of thought that this system has been in existence from time immemorial and what has been good to our ancestors must necessarily be good to ourselves. Sir, that constitutes the background when we enter into a discussion of a social matter or socio-economic matter of this type. Now, the question arises, is this House justified to allow itself to be carried away by these considerations or should the House take into consideration the existing conditions and the changes that have been brought about and adumbrate such views and enact such measure to meet the requirements of the spirit of the time. I submit to this House that it has been the practice of this House to take into consideration the spirit of the times, the requirements of the situation and without fear or favour, without fear of hostile criticism or even without fearing that motives may be imputed have taken a definite line of action, *viz.*, that this House shall effect changes if it is satisfied that such changes are necessary. This has been the practice we have followed.

Now, Sir, in the human history there is one line of action which man has consistently kept up irrespective of colour creed, race or climatic conditions or country, namely, the attempt to subjugate woman and to keep her under subjugation under any circumstances whatsoever. The methods adopted are either religious or economic.

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Religious methods I will just explain. In the Hindu religion a woman is told that during her infancy and childhood she depends upon the father, during her adult stage she depends upon her husband, and during her old age she depends upon her sons for her existence, thereby proclaiming to her that she has no separate existence. The Hindu philosophy carried this to such an extent that women were burnt to death on the funeral pyre of their husbands on the ground that a women without husband has no separate existence and has no right to exist. Take the Christian philosophy. I have got a passage here. According to the Christian conception of creation man is placed over woman who was created from the body of man. The Christian religion has always accepted the superiority of man over woman who is regarded as the weakest sex requiring protection and support from man. Hence it is only natural that man should inherit a larger share than woman. Sir, here I don't want to enter into a discussion on the quality of the logic. By these subtle methods we force ourselves into a belief that we are superior and induce the women to think that they are inferior. Then what is the other method resorted to? Economic. Different countries have resorted to different economic methods to keep women in subjugation. In certain countries they go a step further and in order to keep the family in tact as was the argument raised yesterday they introduced what they call *primogeniture* system of dealing with the property. As a consequence, the eldest son who inherits the old property and violates the natural law has natural justice as we understand. But talking in a wider sense, why should the parents who naturally like all their children should sacrifice that feeling and hand over all the property to the eldest son. This is in order to perpetuate the family and also to keep the family asset in tact. That has been the practice in England and through the operation of this law, centuries-old reputable houses are still in existence as a national asset. In the case of Namboodiris, it was enacted in a different way. The eldest man shall marry from the community and all others can marry from other communities. The eldest man's son alone shall inherit the property. If the Namboodiris were allowed to marry from the same community, the result will be the family property will be split up and the sacred name established for ages will be lost. In spite of all the vicissitudes that took place in this country, this House, after persistent agitation in spite of vehement opposition both from inside and from outside the Namboodiri community, enacted this law and placed it on the statute book. Now if you are bold enough to destroy the Namboodiri property, if necessity arises for the sake of the women's

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right, are we going to be guided by this cry that by splitting the property our commerce will be injured, our ancestral property will be divided and our name will be lost? Are we going to be influenced by that? I do not think it is fair to allow this sort of conditions to operate upon the minds of the members of this House on this question.

Now, Sir, there is another point brought out in yesterday's discussion that the community is governed by different laws in different places. I perfectly agree. In British Malabar, the Christians have the right to get equal shares. In Travancore, the share given is only one-fourth, while here, I believe, it is one-third now. An equalisation of shares will certainly be beneficial. But can we afford to go indefinitely till other Governments come round to take up the question? Cannot the people in British Malabar say that we have advanced in our views? If the law is not to ruin Christian population in British Malabar, how are you going to justify the proposition that enactments of this nature will be ruinous to the Christian population? And I go a step further. The natural right shall not be sacrificed for the sake of artificial propriety that is proposed to be kept up.

Now, Sir, these are the only two or three important points raised. Perhaps we may not be in a position to understand and appreciate the difficulties of other communities as we were violating a certain principle in matters of this kind. To some extent, it is possible that I have been influenced by this habit which we all, at least the Namboodiris, acquire from our very infancy. But apart from that, I believe in equality of rights I believe that unless you are prepared to give the right, you have no right to demand equality of vote, equality of position and equality of right in this House. You cannot deny the equality of right. Times have changed and women should be given equal rights. I believe that women have no separate existence from men. Many women are now living independently of men, and the spirit of the time is that they will gradually assert more and more vehemently for their separate rights. You will see in the All India Women's Association, they are claiming equality of rights with men in almost all cases. Unless you give economic independence to the women, the women will not be able to rise up to the height that we expect our women to rise, and unless our women rise up to an equal ladder, there shall be no progress in this country. Even taking the wider sense, it is the duty of this House to consider this question whether we are justified on the ground of the vehement opposition of the majority—and I grant you have majority. I hold that the moment you come here, your vote and your decision are not

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based upon the majority opinion of your constituency. It is impossible to ascertain the majority opinion of your constituency and it may so happen that you in your usual wisdom, in your intelligence and in your experience can form a judgment which may not meet with the approval of your constituency. Therefore, the talk that the majority is against this measure, either based upon a fact or not, is beside the point. But, I would also suggest to Mr. Moothedan that in social matters, lines of least resistence must be resorted to and if in their wisdom they find that one step may be taken now before they reach their fullest destination, a half-way-house, I would most earnestly suggest to him and his friends to follow that line. Now one-third share is given; try to make it half, as we are trying in the case of the Ezhuva Bill. I say little adjustment is essential in carrying out works of this nature. Therefore, this matter ought to receive the earnest consideration of the supporters of this measure, *viz.*, to give half the share of the son to the daughter. Later on, in the fullness of time when the community has realised the beneficial nature of the reforms and come forward for the full share, it will be then time for us to support the measure. Half a loaf is better than no loaf at all. This is all I have to observe and I have spoken this in my individual capacity.

Mr. A. B. Salem *(Mattancheri):* In the Nayar community, do you treat the grand-children from the males and from the females alike?

Dr. A. R. Menon *(Minister for Rural Development):* Father's property is divided equally among the children irrespective of the sex.

Mr. A. B. Salem *(Mattancheri):* Supposing a lady has got a daughter and a son, and the son has left a child. What will the son get?

Dr. A. R. Menon *(Minister for Rural Development):* The son's share.

Mr. V. N. Damodaran Nambiar *(Trippunittura):* I would only like to add one word to the discussion that has taken place on this Bill. I was also thinking as my hon'ble friend Mr. Nayar, that this concerns only a particular community. The hon'ble member has raised a point that this House has on previous occasions established a convention that if a member of a particular community brings in a Bill that pertains to that community, this House should not stand in the way of getting that Bill through this legislature, but should lend its support to it at all costs, irrespective of its merits.

Mr. T. K. Nayar *(Pazhayannur):* I never said that.

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Mr. V. N. Damodaran Nambiar *(Trippunittura):* I remember you said that. And if there is such a convention, I say that that convention ought to be abolished sooner or later.

Mr. T. K. Nayar *(Pazhayannur):* Sir, I may offer a word of personal explanation. I did not say anything like that. Bills have been passed here, such as the Nambudiri Bill, the Ezhuva Bill and the Ezhuthassan Bill. In all these Bills, this Council took a particular view. The convention is that even if there are some members of that community who are opposing the measure, this Council has thought that if it is beneficial to the majority of the community, the House should support it. When one particular member of a community brings in a Bill, he presumes that all other members will oppose the Bill. That is a mistaken notion. I say the Council should support that measure if the Council is convinced that it has the majority support of the community.

Mr. V. N. Damodaran Nambiar *(Trippunittura):* I am glad Mr. Nayar has clarified his position. If the hon'ble member says that the convention he was talking about was the convention that this House should support a Bill which relates only to a particular community if it has got the support of the majority of the members of that community, then I have no quarrel with the proposition. I am also in agreement with such a convention. But I understood Mr. Nayar to have said otherwise. If that was the convention, the sooner we abolish it, the better.

Then, with regard to the merits of the Bill, we have already taken a step at the first reading of the Bill, in order to elicit public opinion in regard to this measure. And what do the opinion that we have received from the public of that particular community indicate? If the Christian community is not further sub-divided into women and men, the majority of opinion received by the Government clearly and unmistakably shows that that community is against the proposed measure. And what do the views expressed on the floor of this House by those hon'ble members, who though they do not represent the Christian community as such, belong to that community, show? It shows a very sharp cleavage of opinion. They appear to be equally divided. Under these circumstances, this Council should not lend its unqualified support to this Bill. My only point is that if this Council has not been able to gather from the discussion that we had here of the clear opinion of the Christian community as a whole, the logical course for them will be to refer the matter to a Select Committee, so that such a committee may be in a position to take further evidence if necessary in the matter and obtain a correct view-point of the community. If, on the other hand, this Council is able to form a clear opinion from the

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discussion and the views already forwarded to the Government by the public, that the majority of the Christian community is against the proposed legislation, my submission is that this Council should reject the Bill even now. So far as I am concerned, since most of the members here have raised very serious objection to the correctness of the view-point expressed and assert that the Christian opinion outside the Council is against the Bill, it may be logical for us to allow the motion for a Select Committee and then reconsider the matter after the report of the Select Committee is obtained.

മിസ്സിസ്സ് സി. ആർ. ഇയ്യുണ്ണി: സർ, ബഹുമാനപ്പെട്ട ചാലക്കുടി മെമ്പർ അവതരിപ്പിച്ചിട്ടുള്ള ക്രസ്ത്യൻ പിന്തുടച്ചാവകാശ (ഭേദഗതി) ബില്ലിനെ ഞാൻ ഹാർദ്ദമായി പിന്താങ്ങുന്നു. മനുഷ്യൻ ജനനാൽതന്നെ സ്വാതന്ത്ര്യിയാണെന്നാണു് ശാസ്ത്രജ്ഞന്മാരുടെ അഭിമതം. അതിനെ അടിസ്ഥാനപ്പെടുത്തി നോക്കുമ്പോൾ സ്ത്രീകൾക്കു് ഇപ്പോഴുള്ളതിലും കൂടുതലായി മാതാപിതാക്കന്മാരുടെ മുതലിൽ അവകാശം കൊടുക്കണമെന്നു് ആവശ്യപ്പെടുന്ന അവസരത്തിൽ പുരുഷന്മാർ അപ്രകാരം ചെയ്യുവാൻ പാടില്ലെന്നു പറയുന്നതിൽ ഒട്ടുംതന്നെ ആശ്ചര്യപ്പെടാനില്ല. എന്നാൽ എന്റെ മാന്യസഹോദരിമാരിൽ ചിലർ ഈ ബില്ലിനു് പ്രതികൂലികളായി കാണുന്നതിൽ എനിക്കു വളരെ വ്യസനമുണ്ടു്. ഇതിനു മതിയായ കാരണമുണ്ടു്. സ്വതന്ത്രമായി ചിന്തിക്കുന്നതിനോ അഭിപ്രായം പ്രകടിപ്പിക്കുന്നതിനോ പ്രവൃത്തിക്കുന്നതിനോ ഉള്ള സാമ്പത്തികമായ സ്വാതന്ത്ര്യമോ മനഃസംസ്കാരമോ അവർക്കു ലഭിച്ചിട്ടില്ല എന്നുള്ളതാണതു്. ക്രസ്ത്യാനിസമുദായത്തിലെ സ്ത്രീകൾ മിക്കവാറും സാമ്പത്തികനിലനോക്കുന്നതായാൽ നിസ്സഹായനികളാണു്. അവരുടെ ജോലിസ്ഥലം അടുക്കള മാത്രമാണു്. അവർക്കു അതിനുപുറമെ നടക്കുന്ന കാര്യങ്ങളെപ്പറ്റി പറയത്തക്ക അറിവോ അനുഭവമോ ഇല്ല. അവരിൽ അധികംപേരും പഠിപ്പുള്ളവരോ മനഃസംസ്കാരം സിദ്ധിച്ചവരോ അല്ല. പുരുഷന്റെ അഭിപ്രായംതന്നെ പ്രതിബിംബിക്കുന്നവർ എന്നേ അവരെപ്പറ്റി പറയാൻ പാടുള്ളൂ. (ഹിയർ, ഹിയർ). നേരെമറിച്ചു് സാമ്പത്തികമായി അവരുടെ നില അഭിവൃദ്ധി പ്രാപിച്ചാൽ തനതായി ആലോചിച്ചു പ്രവൃത്തിക്കുന്നതിനു സാധിക്കുന്നതാണു്. ഇപ്പോഴുള്ളതിലും കൂടുതലായി വിദ്യാസമ്പന്നരായിത്തീരുകയും ചെയ്യും. സാമ്പത്തികമായ നിരാധാരത്വത്തിന്റേയും മാനസികഅടിമത്വത്തിന്റേയും ഫലമായിട്ടാണു് അവർ ഈ ബില്ലിനെ പ്രതികൂലിക്കുന്നതെന്നു ഞാൻ വിചാരിക്കുന്നു. (ഹിയർ, ഹിയർ).

ഒരു രാജ്യത്തിന്റെ അഭിവൃദ്ധി അവിടത്തെ ജനങ്ങളുടെ നിലയെ ആശ്രയിച്ചിരിക്കും. പുരുഷന്മാരെല്ലാം വിദ്യാസമ്പന്നരും ധനാഢ്യന്മാരുമായതുകൊണ്ടുമാത്രം അതിനു ശ്രേയസ്സുണ്ടാകുന്നില്ല. അവിടെയുള്ള സ്ത്രീകളും അപ്രകാരംതന്നെയായിരിക്കണം. പൌരന്മാരായിത്തീരുവാനുള്ള കുട്ടികളെ വേണ്ടുംവിധം വളത്തിക്കൊണ്ടുവരേണ്ട ചുമതല പ്രധാനമായി സ്ഥിതിചെയ്യുന്നതു് സ്ത്രീകളിലാണു്. അങ്ങിനെയുള്ള സ്ത്രീകൾക്കു വിദ്യാമനഃസംസ്കാരം ഇല്ലാതെപോയാൽ ആ രാജ്യത്തിന്റെ ഭാവി ശ്രേയസ്കരമാകാൻ തരമില്ല. അതുകൊണ്ടാണു് പുരുഷന്മാരോടൊപ്പംതന്നെ സ്ത്രീകൾക്കു വിദ്യ ഉണ്ടായിരിക്കണമെന്നു പറയുന്നതു്. അപ്രകാരമുള്ള ഒരു സ്ഥിതിയുണ്ടാകണമെങ്കിൽ സ്ത്രീകൾക്കു സാമ്പത്തികമായ ഒരു സ്വാതന്ത്ര്യം ലഭിക്കണം. അതിനു പര്യാപ്തമായ ഒരു ഭേദഗതിയാണു് എന്റെ മാന്യസ്നേഹിതൻ കൊണ്ടുവന്നിട്ടുള്ള ബില്ലു്. മിക്കവാറും നിസ്സഹായരായിരുന്ന സ്ത്രീകളെ സ്വതന്ത്രരാക്കുന്നതാണു് ഈ മാറ്റം. അതിനെ ഈ രാജ്യത്തുള്ള എല്ലാ

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സ്ത്രീകളും സ്വാഗതം ചെയ്യേണ്ടതാണു്. ഇപ്രകാരം മാത്രമല്ല ഇതിനേക്കാളും കൂടുതലായ ഒരവകാശമാണു് നായർ സമുദായത്തിലെ സ്ത്രീകൾക്കു അവർ നൽകിയിട്ടുള്ളതു്. തന്മൂലം ടി സമുദായത്തിലെ സ്ത്രീകളും വിദ്യാസമ്പന്നരും ഗവമ്മെണ്ടിന്റെ സർവ്വീസിൽ വലിയതും ചെറിയതുമായ പല ഉദ്യോഗങ്ങളും നോക്കിവരുന്നവരുമാകുന്നു. അപ്രകാരമൊരു ഉയർച്ച ക്രസ്ത്യാനിസമുദായത്തിനും ഉണ്ടാകണമെങ്കിൽ ഈ ബില്ലിനെ അനുകൂലിച്ചു് പാസാക്കി തരണമെന്നാണു് ഞാൻ അഭ്യർത്ഥിക്കുന്നതു്.

ബ്രിട്ടീഷിന്ത്യയിലെ പല സമുദായങ്ങളുടെയിടയിലും ഈ തരത്തിലുള്ള നിയമങ്ങളും നടപ്പിലുണ്ടു്. സ്ത്രീകൾക്കു സമാവകാശം കൊടുക്കുന്നതുകൊണ്ടു് അപ്രകാരമുള്ള സമുദായങ്ങൾക്കു യാതൊരു ദോഷവും നേരിട്ടിട്ടില്ല. ബ്രിട്ടീഷിലെ ക്രസ്ത്യാനിസമുദായാംഗങ്ങൾക്കും ബാധകമായ നിയമത്തിലും ഈ വ്യവസ്ഥയുണ്ടു്. അനവധി കാലമായി ഈ നിയമം അവിടത്തെ നിയമാവലിയിൽ സ്ഥലംപിടിച്ചിട്ടു്. ഇതേവരെയും അതു മാറ്റംചെയ്യുകിട്ടണമെന്നു് ആ സമുദായാംഗങ്ങൾ ആവശ്യപ്പെട്ടതായി കേട്ടിട്ടുമില്ല. ബ്രിട്ടീഷിലെ ക്രസ്ത്യാനിസമുദായവും കൊച്ചിയിലെ സമുദായവും തമ്മിൽ നടപടിയിലൊ ജീവിതരീതിയിലൊ മറ്റു കാര്യങ്ങളിലൊ പറയത്തക്ക മാറ്റമില്ല. രണ്ടുകൂട്ടരും വിവാഹബന്ധത്തിലും പെട്ടിട്ടുണ്ടു്. ഈ നിലയിൽ ആലോചിക്കുമ്പോൾ ഈ നിയമവ്യവസ്ഥ തീരെ ന്യായരഹിതമൊ ദോഷകരമൊ ആണെന്നു പറയാൻ പാടില്ല. ഈ നിയമവ്യവസ്ഥ പ്രവർത്തനത്തിൽ വരുന്നതു് മാതാവൊ പിതാവൊ മരണപത്രം കൂടാതെ മരിക്കുമ്പോൾ മാത്രമാണു്. സമാവകാശം സ്ത്രീക്കു കൊടുക്കുന്നതു് കുടുംബത്തിന്റെ നിലനില്പിനും അഭിവൃദ്ധിക്കും ഹാനികരമാണെന്നു തോന്നുന്നപക്ഷം മേൽനടപടിക്കു വേണ്ടത്തക്ക വ്യവസ്ഥയോടുകൂടി ഒരു മരണശാസനം എഴുതാവുന്നതും അപ്രകാരം ചെയ്താൽ അതുപ്രകാരം മാത്രം അവകാശം കിട്ടുന്നതുമാണു്. ഈ നിയമവ്യവസ്ഥക്കു യാതൊരു പ്രാബല്യവും ഉണ്ടായിരിക്കയുമില്ല.

ഇതരസമുദായാംഗങ്ങളായ ബഹുമാനപ്പെട്ട നിയമസഭാസാമാജികന്മാരോടു് എനിക്കൊരു അഭ്യർത്ഥനയുണ്ടു്. അവശരും അസ്വതന്ത്രരുമായ ക്രസ്തീയ സ്ത്രീവിഭാഗത്തിന്റെ ഉയർച്ചക്കും സ്വാതന്ത്ര്യത്തിനുംവേണ്ടി ഈ ബിൽ പാസാക്കിത്തരുവാനാണു് ആ അഭ്യർത്ഥന. ഈ നിയമസഭയിൽ പുരോഗമനപരമായ പല ബില്ലുകളും നിങ്ങൾ പാസാക്കികൊടുത്തിട്ടുള്ളതുപോലെ ഈ ബില്ലും നിങ്ങൾ അനുകൂലിച്ചു പാസാക്കിത്തരുമെന്നു് വിശ്വസിച്ചു് ഈ പ്രസംഗം നിർത്തുന്നു.

Mr. A. B. Salem *(Mattancheri):* I would never have intervened in this debate upon this Bill, but for the fact that some misconceptions have been given utterance to by certain members on the floor of this House. When a Bill affecting a particular community and no one else is brought for discussion in this House, then the opinion of that community must be fully ascertained by some means or other. Otherwise, those who are not familiar with all the circumstances of the case will be passing a measure and forcing it upon that community against its will to accept such a measure. That proposition I can never subscribe to. If it were a homogenous community that is existing in the country, then whatever the laws passed in the legislature, that must be binding upon the community. But heterogenous communities exist with minorities,

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If the majorities are going to impose their will in every matter, even in such matters not affecting their own practices, it would be rather hard and it would be a tyranny of the majority upon the minority community. That should never be the policy. It is for that purpose that safeguards are to be introduced in the legislatures, especially in the legisture of the future self-governing India.

Leaving aside that aspect of the question, the Bill has been subjected to much criticism as to the giving of shares to the daughters. I am the father of five children and I treat them all alike. It is not so in the Nayar community. The children by the boys get nothing in the family. The girls by the girls or the boys by the girls get equal right to property. It is the result of matriarchal system. But the fact remains that children by the boys and the children by the girls do not stand alike in the same family, whereas in the case of Jewish family or Christian families whether you give a share to the girl or the boy, the children of the boy or the girl will come into their father's or mother's place. Therefore, there are various types of systems prevailing.

Mr. E. Ikkanda Warriar *(Cheruthuruthi):* What is custom among the Jews ?

Mr. A. B. Salem *(Mattancheri):* The custom is the boys inherit.

And the girls, after marriage, go into an equally ordered family and form part of that family. Here amongst Nayars, the girls are married and the husbands go there to their houses,—boys are married to girls and the girl does not go out of her house. The ladies live together harmoniously, and mothers-in-law always welcome sons-in-law, not daughters-in-law.

In all these matters of inheritance the Christian community have followed the Bible. If you go against those principles, it is objectionable. It is not a question of tyranny, it is not a question of denying rights. They have got rights in the family. Therefore, this system is based upon ideas that the Christian community has borrowed from Palestinian ideas.

Mr. K. Ayyappan *(Ezhuvas-Kanayannur):* What is the Christian law in British India ?

Mr. A. B. Salem *(Mattancheri):* It is not the Christian Law. It is the Succession Act.

Mr. K. Ayyappan *(Ezhuvas-Kanayannur):* The Christians also follow that law.

Mr. A. B. Salem *(Mattancheri):* The origin of the Christians in Malabar and the Christians in British India are entirely different.

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The Christians of British India are converts while those of Cochin and Travancore are pure Christians. They have got a knowledge of Christianity in a way different from other parts. The Hindu idea and the Christian idea are mixed up and the Hindu idea is prominent.

Now, the major part of the opinion elicited is otherwise. It would not be just for the House to support this measure. I cannot see my way to support it. But I am not against the girls getting property or getting education or against their rise in full. In fact, I stand to gain if this Bill is passed, as I shall be getting some property. I shall be getting my wife's father's property.

The House rose for lunch at 1 p.m. and reassembled at 2-30 p.m. with M. R. Ry. K. Ayyappan Avl., Deputy President, in the Chair.

Mr. K. Kochukunhan Kaimal *(Vadakkancheri):* Sir, I wish to make a few observations on the vexed question now before the House. There are sharp differences of opinion among the members of the community themselves. Since this is a matter relating to creation of rights in property to certain classes of persons who enjoy no rights now, the matter is all the more important to members who do not belong to that community. The matter is very serious, and they have to exercise their vote in the best possible manner without injuring the feelings of the promoters of this Bill or the opponents of this measure. Bofore I go into the merits of the Bill I should like to say one thing. Some of my predecessors have relied upon certain conventions in support of the attitude they have taken to the measure. Certain prior Bills were also relied upon supporting their position. I do not want to be tied down by such conventions unless such conventions are clear cut and are of equal importances so far as the present question is concerned. The latest of the legislations in respect of which this practice has been relied upon was the Child Marriage Restraint Act. That is no doubt a measure in which all the members including me voted against the wishes of the Brahmin community which was mostly affected by it. In that case I must submit that it was not a measure affecting the property rights nor did it disturb the existing law regarding the rights in property of the persons concerned. It is clearly a social custom which had its basis upon certain sentiments and ideals that existed at one time that was sought to be affected. There it was merely a question of sentiment and no question of property was involved. So my submission is that the fact that the other mem-

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bers of the community were guided by the opinion of the majority of the members cannot be relied upon. Now so far as the Nambudiri Bill also was concerned, that Bill was not to create any new rights except to define and amend certain rights which were already existing. We did not give any right of partition by the new law. Almost all the members of the Nambudiri community were entitled to proprietory rights. They were entitled to get maintenance and not the right to partition. Except with regard to the abolition of polygamy, I do not think that there is any new right created by that. No doubt, the right to maintenance which was already existing has been extended to some extent by giving even separate maintenance in appropriate cases. So far as that Bill was concerned, it did not give any new rights in respect of properties. The Bill now before the House cannot be treated in a like manner. My submission therefore is that the convention which was relied upon by the two members is of no use in this connection.

Now coming to the merits of the Bill, my submission is what we should be guidedby, is not the so called convention which has not got very much value, but that we should be guided by the views and feelings of the members of the community which is going to be affected by this legislation. What I want to say is that the one main argument relied upon is, since the right in respect to property has already been granted by the Act of 1097, it is only an enhancement of that right and so, insofar as the principle of the Bill has been accepted, there is nothing objectionable and the present extension of the right is only consistent with the progressive ideals obtaining among the advanced sections of the community in the country. In that matter there is some delusion. So far as I know and so far as my experience goes regarding the so-called rights of women in the property of their father the customary law followed, till some decision of the Chief Court, was not to give any right to the daughters in the property of the father upon his death. The idea among the Christians was that the daughters after they are married and after giving *streedhanam*, cease to be in the family of the father and they do not get any right to the father's property on the death of the father. When some inroad was made into this customary law on account of some decision by the judges who came with some advanced views, the Christian community was surprised. In some cases even equal shares were given by these advanced judges. There thus arose conflict between the customary law and the decisions of the High Court. The law got into an unsettled condition and that gave occasion for introducing a Bill and as rightly observed by some hon'ble members, the members of the Committee constituted to draft a legislation struck a *via media* policy and gave the daughters 1/3 share. Thus

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the Act which is now in the statute book came into existence. My submission is that except by that Act which gave a partial right to women there was no law or custom which gave sanction to the up-holding of the women's rights in the father's property. We should now see whether the Christian community is in favour of giving more rights to women or to leave the law as it is. In this matter no doubt there will be views expressed from both sides. I am sure all the women will be in favour of obtaining equal rights with the sons and probably the sons will certainly be opposed to those rights. We have therefore to consider whether the opinions that have been received more or less represent the feelings of the community. Now so far as the list is concerned, I find a large number of ladies and gentlemen especially from Ernakulam are in favour of the Bill, while at the same time I find the males and females from Trichur are totally opposed to this Bill. What I wish to submit is that we should not give much prominence to the number alone. I am not for deciding this question by the numerical strength. When I went through the list of persons who have given their opinion in this matter I find a very large section of the Christian community, especially educated men holding responsible posts and having a large number of children, both males and females, have expressed their opinion against the Bill. One argument was advanced that so far as natural affection is concerned there should be no distinction between males and females and that the properties also should be distributed equally between them. That proposition, if stated in its broad aspect, will be all right; but if you take into consideration the custom of the community, it may be otherwise. Now in this matter we find a large section of the Christian population, educated, and responsible, have unmistakably expressed their views against the Bill. We find that many of them are fathers of both male and female children. It is not because of the fact that they have no love towards their daughters that they have done so. The opinion that is to be respected in this matter is that of the fathers and mothers and not of sons and daughters, because the sons and daughters have their own grounds for supporting their position.

Deputy President: May I expect that you are nearing your conclusion?

Mr. K. Kochukunhan Kaimal *(Vadakkancheri):* Now, Sir, I have also found from the supplementary note to the opinions printed by the Government that some of them even though against the Bill have qualified their views by saying that if this Bill is going to be enacted a *via media* may be resorted to and that is by making the share half of that of a son. It is certainly one of the wisest steps that ought to be adopted in cases where the views are diametrically

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opposed to one another and are so divergent. Such adjustments or compromises are one of the best ways of combining the conflicting elements. My submission is that our opinion should be guided more or less by the enlightened and educated sense of the Christian community. Therefore I say that a *via media* may be struck and the daughters may be given as a sort of compromise ½ that of a son.

Mr. V. J. Mathai *(Planters):* Sir, I move that the question be now put.

Mr. L. M. Pylee *(Latin Christians-Ernakulam):* I second it.

Closure motion put and carried

Mr. M. Sivarama Menon *(Advocate-General):)* Sir, before stating what the attitude of the Government is with regard to this measure, I would like to make one or two preliminary observations. The history of the Cochin Christian Succession Act, as it now adorns the Statute book, has not been traced by the hon'ble members in their speeches except for the facts adverted to by my hon'ble friend Mr. K. Kochukunhan Kaimal. Before the enactment of the Cochin Christian Succession Act, the High Court of Cochin held that in the absence of definite proof or custom to the effect that daughters have only rights to *streedhanam* and not to any share in the father's property prevailing amongst the community, the Court will accept the principles of justice, equity and good conscience in the matter of succession as laid down in the Indian Succession Act. There was a case where in a suit for partition by a Christian daughter the defendants were not able to prove the said custom and hence the daughter was given an equal share to that of a son. It is not easy to prove the existence of a valid custom. The burden of proof of a valid custom rests entirely on the shoulders of those who set it up. All the essentials requisites of a valid custom are, as I said, just now sometimes very difficult of proof and therefore, even though there was a concensus of opinion among the community that such a custom existed they were not able to adduce sufficient evidence in support of it. The grant of equal share to the daughters was in reality against the wishes of the community. The decision of the High Court was shocking to the sense of the community. They therefore ventured to have a codified law to nullify the effect of the decision. The Act of 1097 which is now in the statute book is the result of that attempt. The special committee constituted for the purpose, after making elaborate enquires and taking evidence in the matter, came to the conclusion as a matter of compromise that it is better that the share of a daughter is fixed at ⅓ so that it may more or less be equal to the *streedhanam* that is usually given at the time of the marriage. My submission before the House is that the guiding factor for fixing this ⅓ as the share of the daughter was the

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fact that the fathers were giving more or less the value of a ⅓ share as dowry. By section 22 of the Cochin Christian Succession Act it was further laid down that in cases where a daughter has been given *streedhanam* she is not entitled to any further share in the case of intestate succession. If you take into consideration all these aspects one cannot think that the enactment of Act VII of 1097 is an argument for saying that when once the community has already recognised that daughters have got a share in the property they should now be given a greater share, unless there is a preponderance of opinion among the members of the community desiring the change. I only say that the existence of a law should not be advanced as an argument for saying that the law requires a change unless a good case for a change is made out.

Has a case been made out for effecting a change in the present law. There must be a definite concensus of opinion among the members of the community affected by this Bill to justify any change in the present law. The only question therefore to consider is whether there is sufficient backing for effecting the change that is proposed on behalf of the Christian community and if Government are satisfied that there is a substantial backing for the change, then Government may support the Bill. In this case therefore the Government are to be guided by the opinions received and it is seen from the printed book that 29 are in support of the Bill as against 500. The hon'ble members of this House have stated that because the Bill was circulated for eliciting public opinion, we cannot attach any great value to numbers, since it may be a case where certain members of the community are not in a position to give their independent opinions. It has been urged that opinions againt the Bill raised by some of the ladies of Trichur have been canvassed and that they do not really represent their views. Government have noted the allegation made in this respect.

We are attempting to legislate for a community which has a Cannon Law of its own, even though it does not contain any provision relating to the matter now on hand. Hon'ble members should realise that nothing prevents the fathers of the Christian community from giving an equal share to the daughters. Even if we are to enact a law saying that daughters should be given an equal share as that of a son, the fathers can nullify the law by the execution of testaments as they please. But if there is a community consciousness about the righteousness or the demand made on behalf of the daughters, fathers may not act in derogation of the interests of the daughter. As a matter of fact, with regard to this matter His Grace the Archbishop of Ernakulam, His Grace the

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Archbishop of Verapoly, and His Grace the Archbishop of Trichur have not expressed any opinion on this Bill. Their opinion, if available, would be very valuable.

Dr. A. R. Menon *(Minister for Rural Development):* What is the inference ?

Mr. M. Sivarama Menon *(Advocate-General):* It is a circumstance which weighs with the Government in coming to the conclusion that they should remain neutral at this stage of the Bill. Government propose to remain neutral so far as this motion is concerned and this is no guarantee for the view that they will be taking the same position throughout the further stages of the Bill. Government wish to be as dispassionate as possible in this matter and if there is a real case, a real desire for a change by many as against a law it is the duty of the community to convince Government of this state of feeling. Government will not be responsible either for carrying this motion or for defeating it. The entire responsibility rests with the non-official members.

Mr. A. V. Moothedan *(Chalakkudi):* Sir, I am very thankful to the hon'ble members who have contributed much towards the discussion of the measure now before this House. I am not very particular about the adoption of such a measure, but I want to see that justice is done to Christian ladies. Before God, men and women are all the same. Therefore, women are interested as much in the property as men and they are entitled to equal share. *Prima facie,* therefore women should be given equal share and the burden of proving that they are entitled to a smaller share is upon those who assert that. The Advocate-General has generally taken an impartial attitude; but I think it was not quite correct to have cast the burden of proving that women are entitled to equal share on those who support the motion.

One of the objects I have aimed at is that the dowry system should in course of time disappear. Much harm is done by the system of giving dowry. People have to borrow enormous sums when they have to get their daughters married. This amount they are not in a position to pay up and then the difficulty arises. Fatherr are reduced to misery and poverty, as they are not able to repay the sums borrowed for paying dowry to daughters. Now the daughter is getting $\frac{1}{3}$ share. After passing the Bill, when a marriage is arranged, the question of sharing property equally will be considered. If dowry is insisted upon, the girl will lose a higher share in the property. Therefore parties would not, as now, insist upon oowry. Thus gradually dowry system might disappear to a certain extent.

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Then, it has been argued that sons are working with the father while daughters are sitting idle at home. What about the posthumous child? A posthumous child is born after the father's death. There is no logic at all in that such posthumous sons should be given a greater share than an elderly daughter. The Trichur merchants say their trade will be ruined if this Bill is passed. Every year when the balance sheet is prepared sons can have a share as remuneration for the services rendered by the sons there. Like that you adjust in the Books of account every year, fixing the remuneration for the services. Why can't you do like that? Out of the profits he may be given a share.

Regarding the position of Christian members in this House, out of 11 members, 5 are voting in favour of the Bill, and five against. Mr. Iyyu has supported this motion, but I do not know whether he fully supports the Bill at all stages. The opinion of the hon'ble Mr. T. K. Nayar and that of the Hon'ble Minister are all the same. The hon'ble Mr. Devassy seems to have said that non-Christian members should not take part in this discussion. What is the meaning of this? Then we shall sit here; let other members leave this hall. We are suffering from special communal electorates and, Sir, you are going to have special communal voting also.

Mr. M. K. Devassy *(Adur):* I did not say that others should not take part in this.

Mr. A. V. Moothedan *(Chalakkudi):* It is stated that when this Bill is passed, the whole Christian community will be disrupted. In Cochin State, the greatest Christian centre is Trichur. There a meeting was held at the Dharmodayam Buildings to consider this question. In a place where there is a population of 25 thousand Christians, only about 50 people attended the meeting. That shows that the people there are indifferent.

Mr. C. R. Iyyunni *(Trichur-South):* May I know whether you were present at the meeting?

Mr. A. V. Moothedan *(Chalakkudi):* I was not present, but I have got reports about it.

Mr. C. R. Iyyunni *(Trichur-South):* I was one of those present at the meeting. More people were present there, people of light and leading, people of respectability and status. They fully represented the Christian community.

Mr. A. V. Moothedan *(Chalakkudi):* Of course people of respectability, light and leading have taken part, but they did not represent the whole Christian community. 99 per cent of the

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people did not take part. Still the argument is that this Bill is a calamity.

Mr. C. R. Iyyunni *(Trichur-South):* Should not all the people of the State know that there is a Bill which is calamitous?

Mr. A. V. Moothedan *(Chalakkudi):* I do not want to proceed in haste. I do not want that the Bill should be rushed through. You may have any amount of discussion. But this argument of disruption of the Christian community, does not hold good.

By a happy coincidence, this Bill was passed on 20th Vrischigam 1097; it is today just twenty years before it was passed. A memorable date indeed—and some change is necessary. The Bill may therefore be allowed to go to a Select Committee consisting of the following members.—

1. The Advocate-General
2. Mr. A. V. Moothedan (Mover)
3. Mr. A. L. Antony
4. Mr. T. P. Poulose
5. Mr. C. R. Iyyunni
6. Mr. V. J. Mathai
7. Mr. L. M. Pylee
8. Mrs. Thankamma N. Menon
9. Mrs. C. R. Iyyunni

Motion put and carried,

12 voting for and 10 against

Deputy President: The Advocate-General will be the Chairman. The Committee will submit its report within two months.

The Cochin Agriculturists' Relief Act (Amendment) Bill No. 4.

Mr. A. V. Moothedan *(Chalakkudi):* Sir, I beg to move that the Cochin Agriculturists' Relief Act (Amendment) Bill No. 4 be read in Council.

Mr. K. M. Ibrahim *(Cranganur):* I second it.

Mr. A. V. Moothedan *(Chalakkudi):* I want this provision to be included in the Bill. According to the definition of the term 'Agriculturists,' certain people are already excluded. For instance, those who pay income-tax, those who earn Rs. 75 or more from non-agricultural occupations, those who are owning buildings in municipalities, the rental value of which does not exceed Rs. 400. All these classes of people are excluded by virtue of the definition of the term agriculturists in the Act. The remaining class of people if they mortgage their properties situated in municipalities, even though they are agriculturists, do not get any benefit on account of clause (c) of sub-section 4 (1). The position is like this. When the

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